

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1783 of 1987

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgement?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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GANESHBHAI M PRAJAPATI

Versus

SUPERINTENDING ENGINEER  
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Appearance:

MR SD PATEL for Petitioner  
NOTICE SERVED for Respondent No. 1  
M/S PATEL ADVOCATES for Respondent No. 4  
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CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 25/02/2000

ORAL JUDGEMENT

1. This is a petition by Ganeshbhai Motibhai Prajapati, who died during the pendency of this petition in an accident on 21.2.1992, and is represented now by his legal representatives, i.e. his widow Hiraben

Ganeshbhai and children, whose names and descriptions are mentioned in the Civil Application filed in the year 1992 on reopening of the courts after the Summer Vacation. According to the petitioner, he was serving as Junior Engineer in the Public Works Department of the State of Gujarat in Daman Ganga Project Circle, Valsad. He was suspended from service on 18.2.1971, but was reinstated on 12.8.1977, with a direction that the period of suspension shall be treated as spent on duty. After his reinstatement, the petitioner resigned from service on 16.5.1979. His full salary for the period between the date of his suspension and reinstatement was not paid despite demand. According to the petitioner, during suspension, he was paid only subsistence allowance and after his reinstatement, with directions to treat his suspension period as on duty, he was entitled to difference of pay between the subsistence allowance and the regular pay. As per the petitioner's calculation, shown in Chart Annexure 'C', he is entitled to difference of pay, aggregating to Rs.70,924.60 Ps.

2. The petition is pending in this Court since the year 1987 and the respondents, representing the State of Gujarat, has not cared to file any reply or counter affidavit. Learned counsel appearing for the legal representatives of the deceased employee points out from Annexure 'D' that on 8.11.1982, the Section Officer of the Irrigation Department, Government of Gujarat, had sent a communication, recommending payment of difference of pay to the petitioner.

3. Since the averments made by the petitioner have not been denied by the respondents and, there is nothing on record to hold that he was not entitled to payment of full salary, after revocation of suspension and his reinstatement, for the period of suspension, the petition has to succeed. The petition is, therefore, allowed, with directions to the respondents to pay a sum of Rs.70,924.60 Ps., as mentioned in Chart Annexure 'C', to the legal representatives of the deceased petitioner as the amount due towards difference of salary from the date of suspension dated 18.2.1971 upto 12.8.1977.

4. The Special Civil Application is allowed. Rule is made absolute to the aforesaid extent, but, in the circumstances, there shall be no order as to costs.

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(apj)

